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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,567	08/22/2003	Markus Petry	041176/264171	9745

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EXAMINER
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VU, STEPHEN A

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/646,567

Applicant(s)

PETRY, MARKUS

Examiner

Stephen A Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8, 11-14, 16, 17 and 19-24 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 9, 10 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group I in the reply filed on June 14, 2004 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

Claim 11 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to whether applicant is claiming a "vehicle seat" in combination with the adjuster. The preceding claim does not specifically claim the vehicle seat, e.g., "for a vehicle seat" as recited in claim 1, line, but in claim 11, there appears to be a positive recital of structure (lines 1-2, "adjuster is in combination with the vehicle seat") indicating that the adjuster is being claimed in combination with the vehicle seat. Applicant is required to clarify the disclosed claimed material, making the language of the claims consistent with applicant's intent.

Claim 21 recites the limitation "the securing elements" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,6-8,11-14,16-17,19-21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 03/004306 A1.

Regarding claims 1,16,and 19: WO 03/004306 A1 shows an adjuster (1) comprising a first adjuster part (5) and a second adjuster part (8) that are mounted for relative pivoting therebetween, and for pivoting at least part of the vehicle seat between a first position and a second position, a pawl (15) pivotable on the first adjuster part (5) and has a first mouth (17) cooperating with a first locking element (18) of the second adjuster part (8) so that the pawl locks the adjuster in the first position, and a second mouth (31) cooperating with a second locking element (32) of the second adjuster part so that the pawl locks the adjuster in the second position, wherein the first mouth and the second mouth are open in the same direction with reference to pivoting movement of the pawl.

With claim 2, the first position is a use position of the vehicle seat and the second position is a non-use position of the vehicle seat.

With claims 3 and 17, the reference to the first adjuster part, the pawl is arranged in a locking position while the pawl locks the adjuster in the first position and the second position.

With claim 6, the second locking element is separate from the first locking element.

With claim 7, the first and second mouths are arranged on different sides of the pawl and each of the first and second locking elements is a bolt.

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With claims 8, 14, and 20, the first locking element is positioned so that when the vehicle seat is transitioned to the first position, the first locking element comes into contact with the pawl and moves the pawl into a locking position so that the first mouth is in receipt of the first locking element and thereby the adjuster is locked in the first position. The second locking element is positioned so that when the vehicle seat is transitioned to the second position, the second locking element comes into contract with the pawl and moves the pawl into the locking position so that the second mouth is in receipt of the second locking element and thereby the adjuster is locked in the second position.

With claim 11, the adjuster is in combination with the vehicle seat.

With claim 12, the first and second mouths, with respect to the pivoting movement of the pawl, are respectively arranged on different sides of the pawl.

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With claim 13, the first and second locking elements are distant from one another and each of the first and second locking elements is a bolt.

With claim 21, the securing elements include a clamping cam (23) and a catching element (25).

With claim 23, the catching element is positioned a small distance from the pawl prior to a crash, and supports the pawl in event of the crash.

***Allowable Subject Matter***

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Claims 4-5,9-10, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 22 and 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bauer et al, Aufrere et al, Myers et al, Unckrich, Kluting, and Busch et al are cited as showing similar types of seat adjuster.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Stephen Vu  
September 17, 2004